

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
January 12, 2012
COUNCIL CHAMBERS
6:30 p.m.**

CALL TO ORDER: Mayor Deborah A. Norkavage called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

MAYOR	DEBORAH A. NORKAVAGE	PRESENT
1 ST DISTRICT	JOHN JAREMCHUK, JR.	PRESENT
2 ND DISTRICT	STEVEN BURG	PRESENT
3 RD DISTRICT	ROBERT KACPERSKI	PRESENT
4 TH DISTRICT	CHARLES MCKEWEN	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	EDWARD OLGA	PRESENT
Town Solicitor, Edward McNally – Absent		
Town Manager, John Giles – Present		
Chief of Police, Laura Giles – Present		

PUBLIC COMMENT:

Chief Laura Giles introduced Officer Zajackowski to the Mayor and Council. She stated that he started as an Elsmere Police Officer then went to the Delaware River and Bay Authority for 27 years and has now come back to Elsmere.

APPROVAL OF MINUTES:

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the December 8, 2011 Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

VOTE: 7-0 All-in-Favor Motion carried

OLD BUSINESS:

None

NEW BUSINESS:

Consideration for First and Second reading of Ordinance 544.

ACTION: A motion was made by Councilwoman Personti to consider Ordinance 544 for First and Second reading. The motion was seconded by Councilman McKewen.

VOTE: 7-0 All-in-Favor Motion carried

Consideration of the appointment of Mrs. Claire Shelton to the Town's Board of Elections to replace Mr. Carl Force

Town Manager John Giles introduced Mrs. Shelton and stated that she lives on Spruce Avenue and would be filling the unexpired 2 year term of Mr. Carl Force.

ACTION: A motion was made by Councilwoman Personti appoint Mrs. Claire Shelton to the Town's Board of Elections replacing Mr. Carl Force for a 2 year term. The motion was seconded by Councilman Burg.

VOTE: 7-0 All-in-Favor Motion carried

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles presented the written report. He indicated that the new Code Enforcement Software went active on January 1, 2012 and that they are already seeing the benefits of this system. He stated that a number of Cease and Desist letters have been posted throughout the Town for delinquent taxes on rental properties and businesses. He stated that the next step is to look into the procedure for collecting fines for code citations that remain unpaid. He stated that the new system once updated will allow for a quarterly review of delinquent taxes, licenses, rentals, citations, abatements, etc, which will allow a cleaner income.

Councilman Kacperski questioned a scenario of if a rental property owner has 5 properties, 4 have paid their taxes, 1 is delinquent are we posting notices on all five properties.

Town Manager Giles stated that this is the case and that they are in jeopardy of losing all 5 rental permits if the taxes on any of the 5 are unpaid. He stated that there are 7 properties that received the initial cease and desist letters and half have paid up. He stated that there is no way that the property owners can't say that they did not receive the notices, they are sent 4 notices and the final is a registered letter which requires a signature to receive. He also asked council for permission to not charge the \$100.00 application fee for payment plans at this time so that the payments can be made and people are just not able to afford the application fee at the time. He stated that during the next licensing year he would like to also realign the licensing year to almost coincide with the tax year.

Mayor Norkavage asked if there was a way to penalize the property owners for defaulting on payment plans.

Town Manager John Giles stated that once a property owner has defaulted on a payment plan, they do not get approved for a second.

Councilwoman Personti suggested that instead of waiving the application fee, make it a conditional fee, if you make your payments the fee is waived, if you default on your plan you are assessed the application fee.

Town Manager John Giles stated that he would check the legalities of that and make it happen.

Councilman Olga asked what the number of outstanding code citations amount to.

Town Manager John Giles stated that there were over 400 outstanding code citations and that he could get the total during the meeting. He stated that 2 Elsmere Blvd was demolished, and stated that the Town has received a protest letter from HAVOC Corp. regarding the awarding of the bids.

Mayor Norkavage asked if the Town had used the bidding company that gave a presentation to the Council and asked if the results were worth it.

Town Manager Giles stated that the Town did use the company for a drainage project and was not satisfied with the services and that it took threatening to cut the contract to get the work completed.

Chief Laura Giles stated that she was meeting with the contractor this week and was intending to tell him that they would not be using his services.

Town Manager Giles stated that the outstanding fine amounts were available, Tax bills that were sent to locations other than the property, as of December 8, 2011, 39 properties registered rental properties resulting in \$8,900.00. 29 owners provided sworn statements that their properties were vacant and have now registered the properties as so, 22 property owners have provided sworn statements and documentation showing that the properties are occupied by them and that for one reason or another their taxes are mailed to a different location, 16 property owners provided statements and documentation showing that the properties were occupied by a family member. Open Invoices, 407 Open invoices, 32 of those invoices had a status of inactive, meaning that the invoices were paid but the invoice was still open for one reason or another. 8 Open Invoices were In-Town businesses that have not renewed their business licenses, 9 Open Invoices for businesses located outside of the Town, 11 Open Invoices for properties where abatements had taken place, 5 Open Invoices where the Public Safety Department had issued a Police Service Fee, 238 Outstanding Code Violations which were limited to 76 properties, 33 of which only had 1 Citation. Delinquent Property taxes, 118 properties owe delinquent taxes totaling \$118,335.00, 21 of those properties owe an amount less than \$50.00 which have been written off for a total of \$359.00, 9 of the properties had a valid Rental or Business License, 12 properties owe a total of \$36,000.00 which have been approved for Sherriff's Sale by the Council, there are an additional 4 properties that he believes should be added to that list for an additional total of \$14,016.00, and 8 properties where the property owners were on payment plans. First Time Homebuyers confirmation, 4 properties were unable to be confirmed, 2 of those properties were confirmed today, 1 of those has come in and registered the property as vacant and we will be pursuing the repayment of those fees.

Councilman Jaremchuk asked if the code still requires landlords to provide their tenants vehicle information, and if there was a mechanism in place that would share that information with the Police Department.

Town Manager Giles stated that they are available but the list is not exchanged in a distinct manner.

Chief Giles stated that the officers take notes and check back on vehicles regularly.

Councilwoman Personti stated that there are two vehicles in her district which have been located at the properties and have been there for over a year. One was right in front of the Police Department and the other is just a few houses up on Spruce Avenue.

Chief Giles stated that she would look into them.

Councilman Burg questions if there seems to be a higher percentage of fees coming in than this time last year.

Mayor Norkavage stated that she feels that it may be too soon to see those increases from the new software.

Councilman Burg asked if there would be a way to start the budget sooner than normal this year due to the financial situation.

Town Manager Giles stated that administratively the budget process has already begun. Each department was asked to submit a proposed 20% cut to each of their budgets, which he feels is impossible but wanted to see what would be proposed. He has received the initial response to the assignment and they have moved on the end of year projection and where the budget will change. He stated that the Charter requires that the budget be to council by mid-May and that he hopes that it will be being discussed way before that and probably begin in March.

Councilman Jaremchuk stated that he would start earlier than that maybe even an informal basis beginning in February, and that hopefully members of council will have some ideas of how to either increase revenue or decrease expenses.

Town Manager Giles stated that he would try his best and that if he was able to get a beginning informal budget available that the members of Council would have to remember that there are still 5 months left in the fiscal year and that there may not be a cut once the fiscal year is finished.

Finance

Town Manager Giles presented the written report and explained that the Sanitation and Parks and Recreation have been separated into separate departments as requested through the Audit.

Councilman Jaremchuk stated that he has noticed that as of January 1st the Town has used 55% of the total approved budget and was curious if that was caused by upfront payments and front end loaded line items.

Town Manager Giles stated that in addition to the budget there was \$95,000.00 of additional funds authorized to be spent.

Councilman Jaremchuk questioned what the tree removal at 32 Richard Avenue was for the Town Finance Statement.

Town Manager Giles stated that it was a tree that was located in Town parkland that was falling into a property and the Town had to have it removed, he confirmed that the Town is not removing trees for residents.

Public Safety

Chief Laura Giles presented the written report, and stated that on December 21st Councilman Jaremchuk, Amy Olga, Councilman Olga, PCF Davis, Sgt. Smith and herself met at the Police Department to discuss the future Elsmere Bureau of Police Needy Family Fund, it was decided that the Town would take over the Financial aspect of the Needy Family Fund and that things will begin to flow a little nicer. She stated that Officer Mitchell and Officer Kerrigan have applied for the New Castle County Police Department and that because of that the Police Department has opened an eligibility list for applicants to replace these officers should it be necessary, they can be qualified or require academy training. In addition, as of January 27th the Part Time position will be cut in an effort to cut costs.

Town Manager John Giles stated that he has spoken with Vince Barbone of Haggerty and Haggerty, and although the Needy Family Fund is not a Town fund, if the Town administers its financial statements it would be audited as part of the Town's Annual Audit and the funds could be better tracked.

Public Works

Town Manager Giles presented the written report and explained that the department has repaired the major pot holes along B & O Lane, he stated that as part of that the businesses along that street have been complaining and threatening to withhold their taxes due to lack of maintenance of the roadway. As part of that project Diana was sent to the recorder of deeds office to look through deeds in the Town for this ownership of the roadway, she located a deed from 1904 that stated that the Delaware Suburban Railway was to construct and maintain a roadway known as B & O Lane. Therefore, we have contacted the CSX Railway regarding the roadway repairs and was told that they would look into the situation and it was indicated that if they were going to maintain the property that they would charge the businesses a usage fee.

Councilman Burg asked that the deed stated that they would maintain the roadway.

Diana Poole stated that the deed specifically stated that "Delaware Suburban Railway shall construct a roadway and maintain it" in addition the deeds for each business along the road state that the property "is granted access to a 16 foot private roadway known as B & O Lane".

Councilman Jaremchuk stated that he has known that it is not a public roadway and that he was recently reminded that it was not, however because the Town has been maintaining the roadway, if we desired we could turn it to a public roadway through adverse possession due to maintenance during the last 20 years.

Town Manager Giles stated that he is concerned that with the road in the condition that it is, it may be in the Town's best interest not to do so because the cost of bringing the road into DelDOT compliance would be expensive.

Councilwoman Personti asked what the billable period for collection of funds and isn't only 3 years.

Town Manager Giles stated that he isn't sure but the majority of the funds that have been used were State Funds. He stated that if there was a choice to take over the property to suggest to the railroad that we will take possession of the road if they bring it into DelDOT compliance first.

Councilwoman Personti asked if there was a different standard for industrial trucks and roadways.

Town Manager Giles stated that there is a different standard and materials.

Councilman Olga asked what the cost benefit of possessing this roadway would be.

Town Manager Giles stated that the Town currently is not required to maintain right of way but it would be a total loss to the Town to maintain the roadway and bring it into standards.

Councilman Jaremchuk stated that he thinks the Town should meet with the Railroad Company to discuss the issues of the roadway.

Town Manager Giles stated that he would schedule the meeting to be at Town Hall.

Councilman Jaremchuk asked how the street sweeper rotation was decided, the second district was swept 4 times but the first district was once.

Crew Chief Mark Marconi stated that he would address that when the street sweeper was brought back out in the spring.

Town Manager

Town Manager Giles presented the written report; he stated that he contact Paoli Services regarding the realignment of the parking lot, Mr. Paoli submitted a bid of \$9,995.00.

Councilwoman Personti asked what the cost would be to put a jersey barrier in the fire lane to block the traffic.

Mayor Norkavage asked if that would cause a problem with Fire or Police Services.

Chief Giles stated that it should not cause an issue because the other portion of the lot would be accessible through Spruce Avenue.

Town Manager Giles asked if the Jersey barrier would look appropriate at the Town Hall and stated that he would still contact the Fire Marshalls Office for approval.

Councilman Olga asked if planters would be more appropriate.

Councilwoman Personti stated that would be a better option and see about prices for planters or boulders as well.

Town Manager Giles stated that he needs the remaining addresses for the Pilot Program for the Trash Containers. He stated that the Pedestrian Path Project Kick-Off Meeting was held earlier in the day and that the Town Match will be \$153,000.00 but that he believes that the Town could apply for a grant through the Transportation Department. It is a total \$800,000.00 project; the fitness equipment is not allowable through the grant that the project is being funded through. He stated that the DuPont Road lane reconfiguration is almost ready to begin; however, the bridge prevents the project from including sidewalks due to ADA Compliance restrictions. He stated that there will be a Police Pension Committee Meeting at Town Hall on January 25, 2012 at 6:30pm; he stated that with all of the changes that have occurred to the existing plan and the addition of the three other plans. Because of those changes he believes that the Pension Committees role should change at this point because the additional three pensions require administration as well, he feels that this should be included with their current duties. Also he feels that since the duties will change, should the committee members be changed, the current officers no longer have a purpose on the committee and he feels a retired officer who is receiving benefits should be on the committee as well as one officer who will be participating in the Town of Elsmere Secondary Police Pension Plan instead of two officers who have no stakes in the pensions that are discussed.

Councilwoman Personti stated that she feels that this should be a discussion at the Pension Committee Meeting and a recommendation should come from them to the Council regarding their membership.

Councilwoman Personti stated that she would like to send an official request to New Castle County to clean the Chestnut Run Creek.

Councilman Jaremchuk requested to add Silverbrook Run to the letter for cleaning.

Mayor Norkavage asked if Derrickson Run could be added to the list for maintenance.

Councilman's Burg and Jaremchuk suggested adding Little Mill Creek to the list as well.

Town Manager Giles stated that there was a mistake within the Finance Department and the Council paychecks for will not be into each persons' accounts until Tuesday.

Councilman Jaremchuk asked if the Police Department was aware that Probation Parole conducted a raid at 204 South Dupont Road.

Chief Giles stated she was not.

Councilman Olga asked Town Manager Giles what the total of outstanding violations was again, stating he did not write it down.

Town Manager Giles stated that there were 238 Outstanding Code Citations, limited to 76 properties, 33 of those received only one citation. These are \$50.00 code fines.

Town Manager Giles also stated that he is asking the Town Solicitor for help wording for Town Ordinances to hold Mortgage Companies responsible for property maintenance in the event of eviction or foreclosure.

Councilman Burg announced that prior to the meeting there was a meeting with residents in the area of the proposed dog park. The residents of the area seemed happy with the proposals that the Town is working with. He also stated that the residents in the area have agreed to remove the signs regarding Marty's Dump once the project is underway.

Chief Giles announced that she is selling raffle tickets for the Police Chiefs for \$100.00; winners can win tickets to the Super Bowl or Daytona500.

ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:

District 1 – None

District 2 – Councilman Burg spoke regarding upcoming budget discussions and how to beautify and support the Town without dipping into surplus. He stated that the council as a whole has the responsibility of this with no “I, ME, or MY” and that the council members should remember why they were elected. He continued by complimenting the job done by the Town employees and stated that should pay freezes or pay cuts be proposed during the budget process he will be vigilant in voting against those cuts against the employees. He stated that it is the council's duties to come up with a plan to prevent that from occurring during the budget process.

District 3 – None

District 4 – None

District 5 – None

District 6 – None

Mayor – Mayor Norkavage stated that she agrees with Councilman Burg and the Council has a lot of serious discussions coming up regarding the budget and finances of the Town. She stated that the Council needs to remember why they were elected. She urged the members of council to come up with ideas regarding the budget and that she will do so as well.

Town Manager Giles stated that he would like the council to reconsider its position regarding not being members of the Delaware League of Local Governments so that the Town's opinions can be heard. The Delaware Police Chiefs' Council is proposing legislature where Town's will be unable to fire their Police Chiefs' as well as legislature coming up regarding mandatory pension contributions for medical benefits.

Councilman Jaremchuk questions what the League of Local Governments has done for the Town other than the Town's role in the newly adopted Election Law.

Town Manager Giles stated that it is not much; however the Town receives a larger voice through the League then the complete lack of voice without them, it is important to have the entire league on your side then the entire league against you.

PUBLIC COMMENT:

ADJOURNMENT:

ACTION: A motion was made by Councilman Burg to Adjourn. The motion was seconded by Councilwoman Personti.

VOTE: 7-0 All-in-Favor Motion carried

These minutes summarize agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tapes may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

DEBORAH A. NORKAVAGE
MAYOR

JOANN I. PERSONTI
SECRETARY